

**My Ref:** IG-14888  
**Your Ref:**  
**Contact:** Freedom of Information Team  
**Email:** [FOI@nottinghamcity.gov.uk](mailto:FOI@nottinghamcity.gov.uk)



**Nottingham**  
**City Council**

**Freedom of Information Team**  
**Information Compliance**  
**Legal & Governance**  
2<sup>nd</sup> Floor  
Loxley House  
Station Street  
Nottingham  
NG2 3NG

Requester

At contact address specified for request number above

**Tel:** 0115 876 4376

**Email:**

[FOI@nottinghamcity.gov.uk](mailto:FOI@nottinghamcity.gov.uk)

[www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk)

11 May 2021

Dear Requester

### **Request under the Freedom of Information Act 2000 (the Act)**

The council has considered your request which was received on 12 April 2021 and our response to your questions is shown below.

*I would like for you to send me a list in excel format of all the care homes, nursing homes, supported living, day centres, respites and all other services relating to supporting individuals with learning disabilities or mental health conditions. Please can you provide a breakdown of the spend as well as the names of the services and any contact details you have for these services.*

*Please can I have this in the last financial year, 2019-2020*

See attached document '14888 – Data'

Regarding contact details for each organisation, the council is withholding this information. In accordance with section 40(2) of the Act, the personal information about identifiable living individuals is exempt if disclosure to a third party would contravene one of the UK General Data Protection Regulations (GDPR) principles. The council are therefore withholding this personal information, as publication would breach the first data protection principle in Article 5 of the UK GDPR.

Section 40 of the Freedom of Information Act 2000, states:

*"40 Personal information.*

*(1)Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.*

*(2)Any information to which a request for information relates is also exempt information if—*

*(a)it constitutes personal data which does not fall within subsection (1), and*

*(b)the first, second or third condition below is satisfied.*

*(3A)The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—*



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*(a) would contravene any of the data protection principles, or  
 (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.  
 (3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).  
 (4A) The third condition is that—  
 (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or  
 (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.”*

The council are required under section 40(2) to take in account the UK GDPR, in particular Article 4, which states:

*“‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person”.*

The council have considered the principles of the UK GDPR in our decision as to whether to disclose this information. This information identifies living individuals and is therefore classified as personal data. As the withheld information constitutes the personal data of third parties, the council needs to consider whether disclosure would breach the data protection principles. Principle (a) under Article 5 of the UK GDPR is the most applicable. When considering whether disclosure of information is a breach of principle (a), the council must consider whether disclosure is lawful and then whether it is fair.

The lawful basis that is most relevant in this case is legitimate interests under Article 6.1(f). The council needs to balance the rights and freedoms of the individuals with legitimate public interest in disclosure. The council does not believe there is any lawful basis to disclose this information in a Freedom of Information response. Unlike a public interest test in the case of section 40(2) there is an assumption against disclosure and therefore a justification is needed for disclosure. The council does not believe there is any significant commercial interest, or societal benefits in disclosing this information, and your request does not outline any legitimate interests that this information should be disclosed. Employees of third party organisations would not expect the council to share their personal information. The council believes disclosure of this information would cause an unwarranted interference with those individuals’ rights.

In addition, the council must also consider whether it is fair in general terms to disclose the information. The council considers it would not be fair to disclose the information related to third party organisations. As per guidance from the Information Commissioners Office (ICO), the council should treat all requests for information equally, and the council should only disclose information under the Act if the council would disclose it to anyone else who asked, therefore release of information under the Act should be considered as if it were being released to the world at large. These

individuals would not expect their personal information to be disclosed at the time the information was provided and would not expect their personal information to be disclosed to the world at large without their consent.

The council have therefore determined that in this instance the disclosure of this information to you otherwise than under the Act would contravene Principle (a) of the UK GDPR – lawfulness, fairness and transparency.

The council is withholding this information as detailed above under section 40(2). Please accept this letter as a partial refusal notice issued in accordance with section 17 of the Act.

In accordance with section 16(1) of the Act, the council has a duty to provide advice and assistance to you, as far as it is reasonable to do so. A search of the organisations online should provide you with generic published information for these organisations.

You are free to use any information supplied for your own personal use. If the information provided is marked as published under an [Open Government Licence](#) you are free to reuse it, subject to the licence terms. However, if the information is not published under an Open Government Licence and you wish to reuse it, for example, by publishing the information or issuing copies to the public you are required to request permission for re-use of this information under the Re-use of Public Sector Information Regulations 2005 (RPSI). Your RPSI request must be in writing and include your name and address for correspondence, and specify the information you want to re-use and the purpose you intend to use it for.

If you are unhappy with the response provided or with the handling of your request, you can ask for an internal review in writing stating the reasons for your dissatisfaction. Your request for an internal review should be made to the council within forty working days of the date of this letter. Please quote reference IG-14888 in all communications.

You can contact the Freedom of Information Team either by email: [FOI@nottinghamcity.gov.uk](mailto:FOI@nottinghamcity.gov.uk) or writing to the **Freedom of Information Team, Information Compliance, Legal & Governance, 2<sup>nd</sup> Floor, Loxley House, Station Street, Nottingham, NG2 3NG.**

If you remain unhappy after receiving the response to your initial complaint you can request an independent review from the Information Commissioner's Office at **FOI/EIR Complaints Resolution, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.** You may also contact the Information Commissioner's Office by telephone on 01625 545745 or by email at [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk).

Yours sincerely

Freedom of Information Team  
Legal & Governance  
Nottingham City Council